



Appeal Decision

Inquiry opened on 13 March 2012

Site visit made on 17 April 2012

by Antony Fussey JP BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 May 2012

Appeal Ref: APP/E3525/A/11/2162837

Land between Upthorpe Road and Hepworth Road, Stanton, IP31 2AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 ("the Act") against a refusal to grant planning permission.
 - The appeal is made by Abbey New Homes against the decision of St Edmundsbury Borough Council.
 - The application Ref SE/10/1410, dated 4 November 2010, was refused by notice dated 26 July 2011.
 - The development proposed is the erection of 101 dwellings with associated access and open space.
 - The inquiry sat for 7 days on 13 – 16 March, and 17 to 19 April 2012.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 101 dwellings with associated access and open space on land between Upthorpe Road and Hepworth Road, Stanton, IP31 2AE, in accordance with the terms of the application, Ref SE/10/1410, dated 4 November 2010, and the plans submitted with it (except where otherwise varied or excluded), subject to the conditions on the attached schedule.

Application for Costs

2. At the Inquiry an application for costs was made by Abbey New Homes against St Edmundsbury Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. As originally submitted, the application under appeal proposed the erection of 106 dwellings. The appellants subsequently amended its description to that set out above. It was refused by the Council in that form and the appeal concerns the amended proposal.
4. After the Council's decision, plan E1391/4/F, relating to off-site highway works, was submitted to replace plan E1391/4/E, in consultation with the Council and the highway authority. I have determined the appeal on the basis of the replacement plan, which resolves some of the objections made.
5. After the submission of the appeal the Council withdrew that part of reason for refusal 2 relating to house type M. It also withdrew reasons 3 and 4, which concerned the proposal's impact on the Stanton Windmill and the effect of a new access point on nearby dwellings. However, interested persons maintained their objections on these grounds; I have considered the evidence given on these matters.

6. The appellants submitted a unilateral undertaking under Section 106 of the Act which becomes effective if the appeal is allowed. It relates to the provision and occupation of the proposed affordable housing; the laying out and equipping of public open space on the site, together with provision for future management; the implementation and funding of a site travel plan and of a car share scheme.
7. At the Inquiry the appellants provided replacement undertakings, which made some minor revisions to the earlier ones. The most recent one was dated 16 April 2012 and I have determined the appeal in the light of this document. Suffolk County Council confirmed its acceptance of the provisions relating to the travel plan and car share scheme. At the Inquiry the local planning authority said that it accepted the undertaking's terms. In my opinion the obligations contained in the undertaking are reasonable, necessary and directly related to the development in terms of the Community Infrastructure Levy Regulations 2010 and the National Planning Policy Framework (NPPF).
8. Some third parties asked me to observe traffic conditions near the site, and within the village and its surroundings, during a morning rush hour. I therefore carried out an unaccompanied visit on 19 April between 0800 and 0900 hours.

Main Issues

9. I consider that the main issues in this appeal are
 - the effect of the proximity of the sewage treatment works (STW) on the living conditions of future residents with particular reference to odour;
 - the impact of the type D dwellings on the character and appearance of the surroundings;
 - the effect of the development on the setting and operation of Stanton Windmill;
 - its impact on highway safety;
 - the effect of the proposed access arrangements on the living conditions of nearby residents.

Planning Policy

10. The Replacement St Edmundsbury Borough Local Plan 2016, adopted in 2006, allocated the appeal site for housing under policy RA2(a), with an indicative capacity of 70. The site was first allocated in a deposit draft in 2003. The allocation was intended to support Stanton as a rural service centre. Policy DS5 required major developments to accord with adopted Development Briefs (DBs) and the Council adopted one as supplementary guidance for this site in September 2009 following public consultation, including 2 public meetings. It covered such matters as layout and design principles; there is no dispute that in principle the application accords with the DB.
11. The St Edmundsbury Core Strategy, adopted in December 2010, carried the site's allocation forward, and included it in the housing figures. The Council accepted that it is a significant element of its housing supply and its spatial strategy in policy CS1, which provides for appropriate levels of development in Key Service Centres (KSCs). Policy CS4 established a settlement hierarchy; outside Bury St Edmunds and Haverhill, 5 identified KSCs, of which Stanton is the largest, "will be the main focus for additional homes". An aim of policy CS13 is to maintain sustainability and to provide housing to meet local needs; the Council agreed that both Stanton and the site are sustainable locations. In my opinion the NPPF's presumption in favour of sustainable development is engaged.

12. Public consultation on "Rural Vision 2032", the Site Allocations Development Plan Document, began in March 2012. Policy RV10 suggests the appeal site as a housing allocation, with development to accord with the adopted DB. There is an indication that the allocation may be removed if this appeal is dismissed.
13. The document currently has little weight, but this section is surprising – the Council's stance in this appeal would logically mean that the site would not appear in it if policy CS3 was indeed breached. Instead, an equivalent site in Stanton would have been identified to reflect policy CS4's strategy, even though it is said that there are limited opportunities for substitute sites. As an alternative, one would have been identified in another KSC to maintain the plan's rural strategy. However the Council has done neither. In any event a replacement allocation in another KSC would not accord with policy CS13's aim to meet local housing needs; allocating no land in Stanton would rather harm its continuing service function and frustrate policy CS1's strategy.
14. It is common ground that the borough has an insufficient housing supply, with an agreed demonstrable figure equating to a 4 years supply. Completions are consistently below target levels; the shortfall is approaching the level where the NPPF requires a 20% buffer. The Council accepts that its housing land supply policies are therefore not up-to-date in terms of the NPPF. In these circumstances, existing allocations which accord with policies CS1 and CS4 are particularly important to the borough's supply.
15. It is right to consider the implications of the loss of such allocated sites for housing supply in the borough as a whole and to the strategy for its rural areas. I do not agree that these should be set aside because housing supply policy is out of date in terms of the NPPF. In my opinion the implication is that there should be more, not less, land allocated to meet the NPPF's principles. Removing this one from the supply would increase the shortfall and cause the loss of a third of the currently identified deliverable housing in the rural part of the borough to 2016. To my mind this would be a serious situation.
16. The proposal complies with policies in an up to date development plan which specifically allocates the site; the Council confirmed at the Inquiry that nothing in the Core Strategy indicates that housing on this site is unacceptable in principle. It also accords with an adopted DB. As promoted by the NPPF, the allocation gives a high degree of predictability. I consider that the Council's new stance of resisting any housing on this allocated site devalues the plan-led system, which is the NPPF's first core principle. In my opinion this site is one where in principle the NPPF says that a development should be approved. Its allocation has very significant weight.

Effects of Odour

17. The Council now argues that material considerations indicate that planning permission should be refused, so that in effect the recent allocation should be set aside. It agreed that it is necessary to show a significant risk of significant harm from odour, a position endorsed in documents cited at the Inquiry, including the DEFRA Code of Practice on Odour Nuisance from Sewage Treatment Works (CoP), a Policy Position Statement from the Chartered Institute of Water and Environmental Management (CIWEM) and the DEFRA National Policy Statement for Waste Water (NPSWW).
18. The nearest proposed house would be some 150 metres from the boundary of a STW operated by Anglian Water (AW), and the furthest about 300m away.

AW's concern, taken up by the Council, is that these distances mean that future residents would experience unacceptable levels of odour emission. AW accepted that Stanton is a typical rural STW.

Anglian Water's Position

19. AW did not object to the initial allocation in 2003. Its representations to the draft Local Plan did not address this site; AW sought consultation on developments within 400m of STWs. The Local Plan Inspector considered that a revised wording answered this point. AW's reply to a pre-application enquiry in 2006 did not refer to odour issues.
20. In 2007 developers submitted an enquiry before applying for 22 dwellings on the northern part of the site, including the section within AW's modelled isopleth of concern. AW's reply contained the words "as a general guide no residential development should be sited within 400m of the boundary of a STW". However the reply went on to refer to such matters as detailed costings of a new water supply, and very specific water conservation measures within individual dwellings. At the Inquiry the Council agreed that the reply was not an objection to the principle of housing on the site; indeed I see no such implication. AW did not object to the application, and it was refused in August 2008 solely because of prematurity without a DB / master plan.
21. AW did not object to the DB in March 2009. There was no evidence that the odour situation had materially changed, but in May 2009 AW responded to the appellants' agents using the same wording as in 2007, again addressing costings and detailed water conservation measures. At the Inquiry the Council agreed that this was not an explicit objection, more "a shot across the bows". It also agreed that the first unambiguous statement which would have alerted a developer to AW's concerns about the principle of development was in November 2010.
22. This was after the DB's adoption, but the site still featured in the Core Strategy the next month. A spreadsheet detailed AW's responses to its proposed rural site allocations; an unheaded column shows the appeal site within a cordon sanitaire. In answer to my question the Council confirmed that the spreadsheet did not form an objection, and contains nothing to resist the principle of the site's development. It rather identifies sites with major infrastructure constraints and the works AW would need to carry out if they were developed. This site did not fall into that category, but rather one where "infrastructure and/or treatment upgrades are required to serve proposed growth".
23. AW objected to the application in April 2011, but confusingly also proposed conditions. AW also referred to an earlier letter which accepted information in a report prepared for the appellants, noted its conclusion that significant impact from odour would be unlikely, but still objected to the application.
24. AW¹ detailed 35 occasions in an average month when odour emissions from the STW increase above normal expected operations. They include 3 tanker movements and 3 regular operational visits a week. These may last a short time; tankering takes only up to 30 minutes. Some intermittent non-routine events, such as action to address high levels of suspended solids and to reduce high sludge blankets in final settlement tanks, can also increase emissions.

¹ Mr Langlois of Anglian Water was called by the Council as a witness. However he spoke with experience of AW's position and operations. Where appropriate I have attributed the information he gave at the Inquiry to AW rather than the Council.

25. The CoP advises that, when considering applications near STWs, it is good practice for councils to consult environmental health authorities and sewerage companies. The Council's environmental health department had received no complaints about odour from the STW, and recommended approval of the application as it anticipated no complaints arising. AW had also received none. I agree with the Council that a lack of complaints does not mean that there is no problem, and that levels of annoyance causing someone to complain can be subjective, but I give material weight to the absence of complaints here.
26. It is significant in this context that many houses (the appellants estimate 176), as well as a middle school, are already within the distances quoted by AW. These include estates on the eastern side of Stanton, where some properties have higher modelled odour levels than on the appeal site. AW's cordon sanitaire plan identifies some, but not all, of the properties involved.
27. One omitted is some 120m from the STW, near the entrance to its access track, but a more significant omission is a row of bungalows at Armstrong Avenue, part of a 53 bungalow estate of defence housing, east of the STW. About 15 of them are closer to the STW than the appeal site would be; 22 are within 300m. Moreover they are downwind of the STW when prevailing winds blow. The estate has been empty since October 2009; it was suggested that they had been last occupied by USAF personnel, who may have been unwilling to complain about their host country. Even if this were so, I do not agree that they should be discounted. Moreover they are currently on the market and I was told that some have been sold recently. They are therefore likely to be permanently occupied in the near future; this is relevant to the odour impact.

Cordon Sanitaire

28. The principle of separating odour creation and receptors is well-accepted. The CoP advises the use of buffer zones, as encroachment of odour-sensitive developments can lead to complaints. However, as differing circumstances between individual STWs make standard distances difficult to produce, it cautions against their use, and instead promotes a site specific approach.
29. AW's rationale for generally opposing development within 400m of a STW appears to be that planning permission is needed for agricultural sewage sludge storage within 400m of protected buildings. This is a flawed approach: the fact that a development may require a specific planning permission does not make it unacceptable or justify an automatic objection. At the Inquiry AW accepted that there is no justification for objections based on a standardised cordon sanitaire, but this still seems to be its approach, although the size has now been reduced to 300m. Indeed at the Inquiry the Council conceded that this is a consultation distance, rather than a reason for objection or a "blanket restriction" on development.
30. There is no policy justification for any cordon sanitaire, let alone that of 400m in the Council's decision. I am not convinced that AW was reasonable in "seeking to maintain an encroachment zone of 400m, regardless of previous planning decisions/representations such as a Local Plan or the location of existing development". Indeed, AW told me (disagreeing with Dr Bull) that a 300m cordon should not be applied here, and could envisage housing within it if the risk were acceptable. The Council also recognised that the Local Plan Inspector knew of AW's general concerns about development close to STWs, but that he must have found that this did not undermine the principle of housing at this site, or he would have recommended its deletion from the plan.

31. I note that there is no reference to a cordon sanitaire or encroachment zone in the current consultation document. The situation differs from that in an appeal in 2001 near Chelmsford (APP/W1525/A/00/1053348), where adopted supplementary guidance had a 300m cordon sanitaire and was given significant weight. Moreover in that case complaints had come from properties in it.

Modelling of Odour Impact

32. The impact of odour is measured by reference to European Odour Units (OU_E/m^3), an hourly mean odour concentration which is not exceeded for 98% of the time. The models produce isopleths of equal concentration. DEFRA "Odour Guidance for Local Authorities" indicates that $1 \text{OU}_E/\text{m}^3$ is the point of detection, 5 is a "faint odour", while 10 represents a "distinct odour".
33. It is common ground that the models used by the parties are suitable for odour dispersion modelling. Predictive modelling must have inherent uncertainties and there is a subjective element in what data is inputted and how results are interpreted. Indeed, AW accepted that dispersion modelling "is not without uncertainties". The Council conceded that the isopleths are not "hard and fast" and should not necessarily be used to define acceptability. There were differences of opinion between the parties over the nature of emissions from different parts of the STW, but in general the models produced broadly similar results. The parties agreed that winds blow from the STW towards at least some part of the site for 12% of the time, with a higher proportion towards Armstrong Avenue, which accounts for higher values there.
34. Only one set of modelled results led to AW's objection to the application. They showed that odour on most of the site was below $1.5 \text{OU}_E/\text{m}^3$ with only some 10% (in the north-eastern corner) between 1.5 and 2. The model also showed that most of the nearest properties on Armstrong Avenue would have levels of over $3 \text{OU}_E/\text{m}^3$, with some over 5.
35. AW accepted that only part of site would be affected by what it argued was a high concentration, but still recommended the refusal of the entire proposal. It did not seek to modify the scheme to take account of what the model showed, but clearly took a precautionary approach. However at the Inquiry AW confirmed that it could accept some development on the site, but would need more modelling to assess the exact area where this would be possible.
36. AW then provided further models with its statement of case, based on meteorological data from 2008, 2009 and 2010. Each showed the entire site outside the $2 \text{OU}_E/\text{m}^3$ isopleth, but the 1.5 line made incursions into small parts of it, different in each year. 4 others were later provided, based on 2011 survey data. 3 results were similar to the earlier models, but in the other about two-thirds of the site was over $1.5 \text{OU}_E/\text{m}^3$, about a fifth over 2, but none over 3. It seems that this last model included unusually high emissions from sludge holding tanks, and there was some doubt whether these should properly have placed the event outside the 98%ile. Dr Bull confirmed that, apart from this model, most of the site is capable of development based on $1.5 \text{OU}_E/\text{m}^3$ isopleths. Moreover, all these models predicted odours of over $5 \text{OU}_E/\text{m}^3$ in at least some part of Armstrong Avenue.
37. Dr Bull's own models applied different assumptions to the same data. The November 2011 data showed the whole site outside the $1.5 \text{OU}_E/\text{m}^3$ isopleth and all of Armstrong Avenue under 5. December data showed two-thirds of the site over $1.5 \text{OU}_E/\text{m}^3$, its northern tip 3, and Armstrong Avenue between 5 and

10. He confirmed that this was the realistic "worst case scenario". Applying a seasonal variation showed all the site over 1.5 OU_E/m³, half over 3, the northern tip over 5, and half of Armstrong Avenue over 10.
38. An ADAS model, addressing septicity at the STW, showed all the site outside 1.5 OU_E/m³. One based, like Dr Bull's, on December 2011 data and with a "worst case" operational scenario which combined unlikely events and provided for calms, had a similar result in relation to the 1.5 OU_E/m³ isopleth, with the 3 OU_E/m³ line just touching the boundary. Some of the Armstrong Avenue properties also had levels of over 10. A variation of that model with more favourable weather data showed no part of the site exceeding 3 OU_E/m³.
39. The "worst case" models did not represent the normal operation of the STW and could well fall within the worst 2% of events. However most models show levels on at least part of the site exceeding 1.5 OU_E/m³ – but also predict significantly greater levels on Armstrong Avenue. Moreover different models show different parts of the site affected by the various isopleths, depending on the data and assumptions used. Even those produced by the Council vary from that which caused its initial decision. It seems to me that the models are not reliable tools for predicting the exact impact of emissions from the STW on this allocated site, especially when they can involve only small variations around what the CoP says is just over the point of detectable odour.

Guidance on Odour Thresholds

40. Cited documents supported varying thresholds; all were criticised by at least one of the parties. I found a significant lack of precision in such matters as the definitions of terms used and the applicability of the various standards to different situations. Nor was it always possible to directly compare the various findings based on different data and assumptions. I also saw that the same expert witness can change his opinion as more evidence is found. There appears to be no complete and unambiguous guidance relating to such small rural STWs - which are hardly uncommon.
41. Moreover the parties agreed that some publications, such as The Environment Agency's (EA) "H4 Odour Management" (H4) and the NPSWW do not relate to the regulation of STWs like Stanton. H4 was prepared only for guidance for processes regulated under the Environmental Permitting Regulations and the NPSWW only applies to very large STWs serving populations of over 500,000. Both concern significant operations and types of activity which generate considerable smells, including STWs which produce large amounts of primary sludge. In my opinion their contents therefore have limited relevance to this appeal. However it was common ground that the CoP is the relevant guidance for considering odour impacts of such STWs.
42. The CoP (and H4) say that the significance of complaints needs to be taken into account in understanding a STW's impact. It advises that the operational and complaints history should be considered before permitting new development close to a particular STW. Moreover, perception of unpleasantness can vary widely from person to person; it seems to me that "annoyance" is subjective, and can cover a wide spectrum of response. The level of odour great enough to produce a complaint can vary with the individual. For example, an odour was detectable at my site visit to Armstrong Avenue, at that time downwind of the STW. The parties agreed that this was of the order of 5 OU_E/m³, but it did not seem to me to be offensive, let alone worthy of complaint.

43. Studies by UCWIR (2001) and Entec (2010) show that complaints at levels of under $5 \text{ OU}_E/\text{m}^3$ are relatively rare, but can occur at under 1. UCWIR found that only 3% relate to levels of below 5, with 59% over 10. Entec says that modelling for many STWs in the UK is based on $5 \text{ OU}_E/\text{m}^3$, and that 14 years' experience of applying and designing to this criterion indicates that odour complaints are unlikely at this level. These findings vary from an MSc research document cited by the Council which predicted 37% of complaints arising within the 1.5 isopleth. However that research is unpublished and was not available; I give it little weight. I also note concerns that its results were derived from aerial photographs and not empirical modelling.
44. The parties agreed that offensive smells can be more annoying than others of the same intensity, and that an element of septicity in odour from a STW can increase annoyance felt. It was also accepted that peak odours which might generate complaints can be short term events, within the 2 percentile. Another accepted principle was that becoming used to a particular odour could reduce displeasure and the propensity to complain; one study showed the level of 10% annoyance increasing to $3.2 \text{ OU}_E/\text{m}^3$ in such situations. However there was no indication how often an odour needed to be experienced to produce this attitude, or whether it came from an acceptance that such an odour, of concern when first encountered, would normally be expected in a particular location.

The Appropriate Odour Threshold

45. The CoP says that "councils should consider resisting development where there is a significant risk of likely statutory nuisance from odour". Nevertheless the parties agreed that a significant loss of amenity can occur at levels less than those which constitute a statutory nuisance. In this appeal the Council advocates a threshold of $1.5 \text{ OU}_E/\text{m}^3$; the appellants urge 3 to $5 \text{ OU}_E/\text{m}^3$. It is material that the Council conceded that policy CS3, cited in its decision, does not refer to odour or pollution, let alone have any criteria relating to odour.
46. An appeal decision in 1993 relating to a site at Newbiggin-on-Sea (APP/F2930/A/92/206240) appears to be the first application of odour standards in a planning appeal. There the Inspector found that a level equivalent to $2.5 \text{ OU}_E/\text{m}^3$, creating "a faint odour", was a "reasonable and cautious" standard.
47. The EA later disputed that this erred on the side of caution. Its view seems to be derived from a Dutch survey-based study of annoyance levels caused by pig farm odours, even though the EA's Assessment of Community Response, also cited by the Council, cautions against transposing results into different locations and different national environmental criteria and aspirations. Dr Bull agreed. Moreover the study was criticised because it did not appear to differentiate between odours originating from farm buildings and those from spreading of pig slurry, which I agree can have very different effects. In any event I am not convinced that it is reasonable to apply odour results obtained from a study of one industry to the wide range of all odour-producing activities which the EA regulates, let alone to those - as in this case - which it does not.
48. An appeal at Leighton Linlade (APP/P0240/A/09/2110667) mainly concerned Green Belt issues, but odour impact was also considered. There a much larger STW than at Stanton, with far greater levels of tanker movements (5 or 6 a day rather than 2 or 3 a week), adjoined a housing area. The $5 \text{ OU}_E/\text{m}^3$ line ran next to rear gardens and complaints had been received from properties experiencing lower levels. The Inspector considered $5 \text{ OU}_E/\text{m}^3$ a reasonable threshold in terms of both nuisance and amenity. He found that evidence of no

- harm being caused to be unconvincing but recognised that odour control methods could be used to mitigate regular and unacceptable odour annoyance.
49. A more recent appeal at Haverhill, in this borough (APP/E3525/A/11/2145235) concerned a housing site some 7m from a STW boundary where predicted levels were between 3 and 5 OU_E/m^3 . The Inspector found that proposal acceptable, with no significant harm caused. The Council approved a subsequent application, using a 5 OU_E/m^3 benchmark, despite an objection from AW, who told me that there were "numerous complaints" there. The Council has not explained why it took an inconsistent stance in this appeal.
50. As well as in these appeal decisions, it appears that odour levels of 3 to 5 OU_E/m^3 are regularly used as benchmarks, as AW itself did at a large STW at Cliff Quay, Ipswich. However AW said that additional mitigation measures there did not prevent complaints, some from outside the 5 OU_E/m^3 isopleth.
51. In a judgement ([2011] EWHC 3253 (TCC)) relating to one of the largest STWs in the country at Mogden, west London, Ramsey J found that nuisance would certainly be established by the time 5 OU_E/m^3 is reached. This implies that the standard relating to loss of amenity would be somewhat lower. However I note that at Mogden there were constantly large areas of septic sludge and I am not convinced that the same threshold need apply at Stanton, where some septicity may be present at some times in particular circumstances.
52. Although not supported by all on its Air Quality Panel, CIWEM does not agree with a 1.5 OU_E/m^3 threshold. It indicates that complaints are unlikely at levels below 3 OU_E/m^3 , with exposure to this level or less appropriate unless the locality is highly sensitive or the odours highly unpleasant. These terms are not amplified, but a sensitive locality appears to be one with a high complaint history; unpleasantness seems to be considered within the context of STWs.
53. Other cited studies appear to reach no firm conclusions on appropriate odour emission levels for this type of small STW. I am not, for example, persuaded that thresholds based on "serious annoyance" are necessarily equivalent to the level of annoyance which would lead to a complaint. While H4 is not relevant to STWs of this scale, it takes account of 10% of people being annoyed, and not necessarily being annoyed enough to complain. I also note that the EA's Assessment of Community Response suggests a 10% "annoyance level" of 1.5 OU_E/m^3 , and 3 for those accustomed to the odour. It says that 5 appears to be "relatively lenient" in relation to northern European studies.
54. H4 differentiates between "most offensive" unmodified odours, having a benchmark of 1.5 OU_E/m^3 , and "moderately offensive", with one of 3. An indicative example within the "most offensive" category is "processes involving septic effluent or sludge". I agree with the Council that H4 does not say that these processes should predominate, nor that they are "likely to become septic". Moreover, despite differences of view on the reasons, the final version of H4 specifically excluded waste water treatment from the top category of unpleasantness. However I am not persuaded that some irregular septicity at STWs outside the remit of H4 is sufficient to label their activities as a whole as "most offensive". In any event Dr Bull agreed that H4 relates to large works which generally involve primary sludge and are septic on a regular basis. He also agreed that odours from them are more offensive than from small STWs like Stanton, while still arguing that both are "most offensive".

55. The parties accepted that annoyance levels producing complaints are subjective and can arise both at levels below $1.5 \text{ OU}_E/\text{m}^3$ and from events in the 2% frequency. The existence of complaints does not necessarily demonstrate an unacceptable loss of amenity, but a lack of any is important in terms of the CoP. It is material in this case. On balance, and taking the relevant advice, decisions and practice into account, it seems to me that the appropriate threshold for this type of small STW is more than the $1.5 \text{ OU}_E/\text{m}^3$ now promoted by AW and the Council. I consider that a more appropriate threshold in this case is 3 - 5 OU_E/m^3 , the level of the DEFRA guidance's "faint odour".
56. The model supporting AW's first objection and the various subsequent models, including the "worst cases", indicates that the level of 3 OU_E/m^3 would not be exceeded on the appeal site. I therefore see no reason to expect a significant loss of amenity to the occupiers of any of the proposed dwellings. At the Inquiry the Council agreed that the loss would have to be of this order for the appeal to be dismissed. Even if its figure was appropriate, the models show that there would generally be only a limited effect on small parts of the site.
57. Moreover I consider that caution is needed when seeking to rely on exact results derived from a variety of data applied to a range of conditions in order to establish a firm dividing line within that part of a spectrum which the CoP says represents a barely discernible odour.

Origins and Treatment of High Odour Emissions

58. Sewage treatment is an inherently odorous process and the parties agreed that the character of odours from different parts of a STW may vary, with the most offensive involving septic sludge or effluent. They agreed that the normal operations at Stanton involve some septic effluent or sludge, or that which is likely to become septic, with most odours emitted from those parts involved; the Council argued a level of 95.5% here. It was agreed that the greatest risk of septicity is at the inlet works, which receive effluent from 4 pumping stations and a gravity sewer; the appellants accepted that septicity there would be normal. There is also the possibility of septicity at the storm tanks and final settlement tanks, although AW agreed that these last are unlikely to be a significant source in normal operations.
59. The CoP promotes "good housekeeping" to avoid serious emissions, and so reduce the risk of nuisance by keeping levels of residual odour low, by for example avoiding anaerobic conditions and minimising septicity. If there are odour complaints, it recommends further steps. CIWEM lists ways of reducing septicity. All parties agreed that Stanton STW is well-run, and AW said that baseline odour control measures are already in place. From the evidence given it appears that management of odours based on good practice can minimise the impact of high emissions.
60. In particular AW accepted that chemical dosing at inlet works is a standard procedure. It seems to me that this and such measures as remote sequencing of discharges from the pumping stations into the inlets could reduce problems there. The parties agreed that activated sludge in the holding tanks is not likely to become septic for some days; the Council's estimate was 1 to 3 days (which is why tankering occurs about every 3 days), while the appellants suggested 7 to 10, as properly managed secondary sludge is relatively odour free. It appears from CIWEM's advice that appropriate management to avoid mixing with old sludge could permit longer storage. This and regular tankering could reduce septicity; AW agreed that tankering could be increased if septicity

became a problem. Dr Bull agreed that this basic good practice would avoid septic sludge going into these tanks.

61. The storm tanks store high flows of untreated effluent from the inlets; there appears to be evidence of some septicity there although there is a dispute about information given to the appellants about this. Remote sequencing of discharges could also help the situation there, as could automatic return and installing an agitator to introduce oxygen. It also appeared accepted that final settlement tanks may also become septic if exceptional reasons prevent them from being de-sludged. Moreover low flows in dry weather followed by a "first flush" after heavy rain would produce septicity for a short period; this may be within the 2% of events, but similar measures could reduce septicity.
62. AW accepted that such remedial works were feasible but was concerned about their costs. The appellants agreed that, without complaints, there would be no reason to incur additional costs. AW referred to the argument in the CoP that a water company's customers should not have to finance works required to provide acceptable living conditions for new residents, a principle endorsed by the appellants. However AW has not quantified them or approached the appellants for any re-imburement. The only indication (from the appellants) of the cost of dosing equipment and chemicals of "tens of thousands" was not challenged. This does not appear significant in the context of the STW's life.
63. Leaving aside the point that AW would have taken account of any costs made necessary by the Local Plan allocation since 2003, it seems to me that they will have to incur additional costs in any event if complaints arise because of the proximity of the properties at Armstrong Avenue. If I am wrong about the threshold to be used, the AW models show that the STW's normal operation would cause significant effects there, and even the appellants' threshold of 3 to 5 OU_E/m^3 would indicate considerable risk of complaints from residents there.
64. The ward councillor reports severe odour on Armstrong Avenue and all the models indicate that there will be far higher odour exposure there than on the appeal site. It may well be that AW are fortunate in having had no complaints from there if their models are correct, but it seems to me that once the properties come into permanent use AW will have to address the strong odours experienced at Armstrong Avenue. This is likely to involve management and operational changes of the type discussed above. AW agreed that there is a high risk that such measures would be required in any event, irrespective of the future of the appeal site, and that the risk would be higher than that arising from the appeal development. Moreover changes to benefit Armstrong Avenue will also reduce the effect which the STW would have on the appeal site.

Conclusions on this Issue

65. The Parish Council is concerned that no account has been taken of noise from the STW. However it provided no evidence of any adverse effect, and it was common ground between the main parties that there is none. I see no reason to take a different view. The Council confirmed that it is now no part of its case that future development of the STW would be in jeopardy.
66. The appeal proposal would bring more people closer to the STW – some 78 additional dwellings within 250m - but an objection on this basis would ignore the likely need to address the severe problem at Armstrong Avenue. Given the subjective nature of odour complaints, it may be that more people living close to the STW would increase the likelihood of complaints. However the lack of

complaints from the many existing properties within the modelled isopleths promoted by the Council indicates to me that the normal operation of the STW would cause no unacceptable risk of a significant loss of amenity, or materially diminish future residents' reasonable expectations of high amenity standards.

67. I find that the proximity of the STW would cause no breach of policies CS2 or CS3. Nor do I find any breach of the NPPF's core principle that planning should seek to secure a "good level of amenity", or of its advice that new development should not be put at unacceptable risk or be adversely affected by unacceptable levels of pollution.
68. I conclude that there are no material considerations in relation to the impact of odour to indicate that the development plan should not be followed. The NPPF requires a decision which does not accord with the development plan to be justified by considerations which significantly and demonstrably outweigh the benefits involved. In my opinion there are no such considerations.

Character of the Surroundings

69. Development close to the site is bland and pays no regard to local vernacular characteristics; frankly, it could be anywhere in the country. However the appellants have taken care to seek to achieve a design which is broadly appropriate to Stanton, and have clearly been willing to amend their scheme in response to consultations. The Council's officers supported it, and indeed recommended the approval of the application in its entirety.
70. The DB seeks to reflect features and principles found in the historic core of Stanton and identifies reference points there. This is in my view a correct approach and accords with policy DS3 of the SPD on Development Design and Impact which urges creation of local character where strong local characteristics are lacking or have been eroded. The wish of some objectors for an estate of bungalows would be wholly inappropriate to Stanton's traditional character. The witnesses agreed on the nature of the local context, with irregular but strong building lines and a variety of materials.
71. It seems to me that in general terms the scheme has been designed to take elements from Stanton's historic core to respond to local character and reinforce local distinctiveness on the appeal site, as the DB requires. Despite criticism that standard house types are used, the layout, density, mix and variety of house types and designs are in my view broadly acceptable, and produce a high quality design as the NPPF promotes. I do not consider that the NPPF's objective of "reflecting" the identity of local surroundings implies replication, but rather the incorporation of general design principles.
72. I do not agree that the Council's position is that the type D houses affect the Stanton Conservation Area, which is in effect the historic core. A development can include features alien to the character of a village which includes a Conservation Area, but without affecting the Conservation Area itself. It is also clear that the Council has assessed the house type's relationship to the heights of the properties in the nearer parts of Stanton, outside the core.
73. The 11 type D houses would have 2½ storeys. There is indeed a varied roofscape in Stanton, with 2 storey properties having slightly differing heights, but the parties agreed that, while accommodation in roof spaces is not uncommon, there are no other 2½ storey houses in the village, let alone in the nearest part. As the appellants accepted, the proposed height does not take

- reference from the village; it fails to relate to the local context and general patterns of height. Moreover the eaves lines of these houses would also be set well above the window heads; I saw no similar arrangement in the village. In these two respects the design of the type D houses would not appropriately respect or respond to local building forms, character or distinctiveness.
74. The other houses on the estate would have the traditional eaves alignment and to my mind this would make the type D houses appear glaringly at variance from the total design concept. In addition, with ridge heights of some 9 metres they would be materially higher than the other proposed houses. These two features would in my view create a discontinuity in the immediate street scene. Generally the type Ds would be next to 2 storey houses, but the difference in heights would in my view produce an awkward relationship between the type D on plot 11 and the 1½ storey property on plot 12. "By Design" says that townscape character depends on how individual buildings contribute to a harmonious whole: in my opinion this would not be achieved here.
75. I agree with Miss Parsons that the Council's stance is not an "unnecessary prescription of detail" in terms of the NPPF. Its decision does not in my view impose its architectural styles or tastes or exhibit a "rigid maintain and protect stance". It rather confines itself to saying what features are unacceptable.
76. "By Design" says that relating new development to the general pattern of building heights should not preclude variety to reflect particular circumstances. However I do not consider that the Council is seeking to stifle innovation. I do not accept that a variation from local traditions is in itself innovative and therefore acceptable.
77. The type D houses are generally in the locations where the DB shows landmark buildings, which are intended to provide a sense of place by differing from their neighbours in terms of scale. However it is clear that a building can be a "landmark" and larger in scale without being higher than others nearby; indeed the DB shows a 2 storey exemplar of a landmark building in the village. It is clear to me that landmark function is not necessarily a matter of relative height; indeed other landmark buildings in the scheme are of 2 or even 1½ storeys. The function rather derives from being distinct from neighbours; the DB refers to scale as deriving from matters such as materials, elevational treatment, hipped roofs and larger windows, and not to height.
78. It is not therefore necessary for the type D houses to be 2½ storeys to accord with the DB. Nor is additional height required for legibility; the DB says that on this site it derives from views of the mill and the countryside – which is achieved in the scheme in any event. In addition, it was conceded that the extra height is not needed to enhance national surveillance of the open space.
79. The NPPF says that the visual appearance of individual buildings is a very important factor. In my view the type D houses would be out of keeping with Stanton's local context and prevailing character. They would harm local distinctiveness and the character and appearance of the surroundings, and be contrary to policy CS3, the SPD and guidance in the NPPF.
80. Most of the scheme is well designed in terms of the NPPF. The NPPF says that permission should be refused for development of poor design, but I do not find that the unacceptable element justifies the refusal of the entire scheme. This would in my view lead to unreasonable delay in the delivery of an allocated housing site, conflicting with the aim of the NPPF to avoid such delays.

However in my opinion the unacceptable nature of the type D houses warrants their exclusion from a planning permission. I consider that, where only one element of a large development would be unacceptable but capable of resolution, such exclusion would accord with the spirit of the NPPF.

81. The part of the appellants' suggested condition to reduce the heights of the eaves and to align them with the tops of the window heads would be beneficial and remove this element of the objection. However the suggested reduction in ridge heights by 0.9m would not be enough; the houses would still be of 2½ storeys, which I have found unacceptable.
82. The Council opposed a condition to exclude the type D houses from any permission. It argued that the destiny of the 11 plots in question would be unknown without specific proposals, and it would not be known whether any alterations would be acceptable in terms of the whole scheme's legibility and sense of place. However the type D houses are in my view severable from the rest of the development, and the Council can consider and control proposed amendments in its context. This would not prejudice third parties or others, as the Council could consult them on revised plans as it finds suitable. I consider that such a condition would be appropriate, as meeting the tests in Circular 11/95. Moreover it would enable a planning permission to be granted for the remainder of the development, whose design the Council finds acceptable.

Stanton Windmill

83. The mill, some 125m east of the appeal site's boundary and 140m from the nearest proposed building, is a grade II* listed building and a scheduled ancient monument. The associated cottage is grade II listed. The mill dates from the 18th century and was relocated to its current site in the early 19th. It was listed in 1970, when it was derelict, but its machinery intact. There was no firm evidence to support the contention that its high grade directly resulted from its potential for operation, although Dr Edis accepted that there was some correlation between high grade, public access and operability. Nor was there any evidence that it would be downgraded if it ceased to work; it would still have significant architectural and heritage interest.
84. Restoration began in 1986, and the mill was worked from 1990. I was told that it is open to the public on one Sunday a month, and by appointment at other times. It is one of a small number of working post mills in the country, and the only one in Suffolk. It currently operates part time because of the owners' other commitments, but they wish to extend operations. They have clearly put a significant amount of enthusiasm, resources and time into what appeared to me to be a high standard of restoration.
85. The surroundings from which the mill can be experienced form its setting. It would formerly have stood in an open rural area, well outside the village; this would have reflected its significance. Over time, housing on the village edge and at Armstrong Avenue has approached, and the school has encroached into the setting. However, the open field west of the mill would continue to form a clear separation from the appeal site, which to my mind is an appreciable distance away. The mill's immediate open setting would not change.
86. The mill is currently visible from Hepworth Road and other distant viewpoints. Most of the closer views are from Upthorpe Road but the hedge along its northern side currently restricts many of them. Providing public views of the mill is a specific aim of the adopted DB; this is done by increasing public access

- to locations from where the mill could be seen and appreciated, such as the proposed open space, the new footpath inside the eastern boundary, and other areas inside the hedge. The appellants do not say that visitors to the mill would go there to view it, but these parts of the scheme would better reveal the mill's significance as a heritage asset, in line with the NPPF's guidance.
87. The proposal would be visible in views out from the mill site, but in my opinion it would be too far away to be unacceptable. It would moreover be seen against the backdrop of the village housing; this and the landscaped buffer on the boundary would help assimilate the development into its background. The removal of the 2½ storey type D houses would to an extent mitigate the development's impact on views from the mill.
88. SPAB claimed that the mere presence of the new housing would harm the mill's setting. However, if that were so, an objection could have been made to the Local Plan allocation, but it was not. The Local Plan Inspector considered the mill's setting in the context of an objection to the failure to allocate land to the east of the appeal site, adjacent to the mill. He found that housing there would indeed materially detract from the character of this part of the open countryside and from the mill's setting, but he had no such reservations about the allocation of the appeal site.
89. In all these circumstances I agree with English Heritage that, with additional planting and other modifications which have been made, the proposal would have no material, let alone unacceptable, effect on the setting of the mill.
90. The mill's present owners bought it in 2004. They do not want constraints on potential working, arguing that this would jeopardise their ability to maintain the mill, as they depend on finance for it from entrance fees and from sales of flour and souvenirs.
91. It is clear that changes to wind speed can affect the periods when milling can operate. Speed declines with the roughness of the terrain it passes over; this can include buildings and trees, which produce a wake which decreases speeds and increases turbulence, only resolved at the end of the wake. The owners say that the effect of the school complex has already reduced milling time. Figures advanced by SPAB before the Inquiry were modified, not least because of a re-examination of the arc from which winds blow towards the mill and its owners' evidence on optimum speeds for their operation. It was agreed that the development would occupy an arc of 62°, and that winds outside it will not be affected. They blow from that arc for 16% of the time; they will first have passed over Stanton and experienced some roughness from its buildings.
92. The owners' evidence is that the optimum wind speed for milling is 15-30mph. The appellants' model, using an industry standard programme for calculating wind velocity and based on nearby weather observations, shows that the mill would experience winds within this range for 1557 hours, or some 65 days, a year. It also shows that the development would reduce the available milling time to 1509 hours - a reduction of 48 hours over a year attributable to the proposal. I agree that these hours of unavailability could occur at any time of a 24 hour period, including when the mill would not usually be operating.
93. At the Inquiry Mr Temple agreed that his model produced similar results to the appellants', based on the same wind speeds. However in closing submissions he referred to a Dutch model and standards derived from it. Were the site to be in the Netherlands, in order to protect windmills, the maximum allowed

- reduction in wind speeds is 20%. This would be breached if obstacles on the site boundary were higher than 4.4m; the proposed houses and planting would not then be permitted anywhere on this site. However this matter was not submitted in evidence or put in cross-examination to any witness. Introducing it at a late stage was unfair to the appellants; I can therefore give it no weight.
94. Mr Temple agreed that the major remaining issue between him and the appellants was the extent of the existing wake produced from Stanton. He accepted that if it were right to take account of prior "roughness" from existing development, the reduction in speeds would be as Mr Freathy calculated. There was no dispute that a wake would extend for some 15-20 times a building's height. That from the existing buildings in Stanton would have slowed speeds down at the appeal site's boundary below those in Mr Temple's model, which took no account of existing development. I consider that it is right to take this slowing into account, as it affects predicted speeds at the mill. Because it has not been, I agree that SPAB's model would appear to overestimate the effect of the proposal at the mill.
95. The mill would be separated from the proposed buildings by about 14 times the nearest one's height. It is clear from the evidence presented that the wake from them would have largely dispersed, but it would still extend to the mill. It seems to me that there will still be an element of increased turbulence and lower speed there, which would reduce the period available for milling. I note the arguments that reduced speed and increased turbulence may cancel each other out, but it seems to me that it may be reasonable to marginally increase the estimated 48 hours loss of milling time.
96. The appellants' model has some shortcomings, with no account taken of individual objects such as tall trees, and being designed to consider maximum rather than minimum or average speeds. However it seems to me that its results would be broadly accurate and more reliable than SPAB's view, based on a wider arc and more extensive optimum speeds than suggested by the owners, of a reduction of 26 days or an alternative estimate of 220 hours.
97. Even if I preferred SPAB's figure, the mill will still be capable of operation at other times. It currently works at a low level; Mrs Grixti said that the sails turn 2 or 3 times a week for several hours at a time and there is milling about twice a month. It seems to me that there would still be scope to increase the milling time, subject to the owners' other commitments. I accept that maintenance costs can be considerable if tradesmen are employed but the owners use their own labour; I was told that materials cost £3 - 4,000 a year.
98. I accept that at current production levels a loss of speed, producing a reduced milling time, would in turn reduce income created, which I was told amounts to some £8,000 a year. It seems to me that the likely reduction in milling time would still enable the normal maintenance costs quoted to me to be covered. However there was no evidence that any reduction could not be made up by more milling, let alone that such loss would be critical to the mill's operability or financial viability, or even to its future as a listed building and ancient monument. Indeed, Mrs Grixti confirmed that it would be possible to do more milling in the future.
99. Following advice from the appellants' consultants, before the application was decided some dwellings in the south-eastern corner of the site were reduced in height and moved further away from the mill. Species of trees proposed next to the boundary were chosen to be no higher than the nearby buildings at

maturity so as not to increase the effect of roughness. This can be reinforced by a condition on any planning permission. As a result of these changes, English Heritage withdrew its objections to the effect on the mill's setting and operability. It also appears that excluding the proposed 2½ storey houses would have a marginal but beneficial effect on the wind speeds at the mill.

100. I note concerns that structures and gaps between them can increase turbulence intensity and gusting, which could lead to structural failure of the mill. However there were no calculations to dispute the appellants' finding that speed reductions and increased turbulence would cancel each other out except close to the ground - where speed of gusts would actually decrease. Mr Temple accepted the appellants' analysis of turbulence.
101. The fantail makes the mill face into the wind; there were concerns that a sudden change in direction when the fantail is edge on to the wind could produce the danger of tail winding. Models show that the existing wind shadow affects the fantail; reduction in wind speed to it would hinder the mill's turning, and the owners are concerned that the development would cause a greater effect, and hence danger.
102. However the potential for tail winding depends on the co-incidence of a number of factors. No evidence was presented that the presence of buildings on the appeal site would materially increase this co-incidence. Indeed, SPAB accepted the appellants' predictions that damage would be unlikely to be a problem. Moreover, the two examples of damage by tail winding quoted by the owners appear to have been actually caused by either mechanical or structural failure preventing the mills in question turning into the wind, and not by gusts of the type suggested here. I am not persuaded that the proposed development would create danger to the fabric of the mill.
103. It seems to me that the objections to the effect on the operability and future of the mill question the principle of development on the appeal site, which was first established in the Local Plan. As an alternative, the suggestion that all buildings on the site should be bungalows to reduce the effect of the wake is contrary to the DB. These objections should properly have been made at appropriate times, when the allocation and DB were being considered. Moreover it was confirmed that the owners were aware of the allocation before they bought the mill, so knew that the site was intended to be occupied by some form of housing development. They did not object to the DB or the continuation of the allocation in the Core Strategy. In my view it is not appropriate now to put significant constraints on land which was allocated for housing after proper consultation, and after the DB was adopted.
104. There was discussion about the impact of buildings which could be erected on fields closer to the mill under various permitted development rights. The Council could consider making an Article 4 Direction if it considered this appropriate; this could not be the subject of a condition on any planning permission for this development, as was suggested to me. In addition, it does not appear to me that a Direction, as also suggested, could prevent landowners from planting trees close to the mill, or allowing existing ones to grow higher.
105. I conclude on this issue that the mill is an important heritage asset, due both to its architecture, history and operability. I am satisfied that its operability will continue, but that its significant heritage value would remain even if it were not working. I consider that the proposal would have no material impact on either the mill's setting or operability and there would be no breach of policy

CS3 in this regard. Moreover, even if there were any harm to it as a heritage asset, this would be less than substantial and would be outweighed by the various benefits of the development, so complying with the NPPF.

Highway Safety

106. The proposed estate road has clearly been designed to deter through traffic, being tortuous in its central section and planned to reduce speeds throughout. I do not agree that heavy (or other) traffic to or from the industrial area further east along Upthorpe Road would use this new road as a "rat run" to avoid the existing junction nearer the village centre. Moreover I see no justification either to delete the access on to Upthorpe Road or to restrict its use to pedestrians or emergency vehicles. Any such requirement should have been in the DB, but did not; the estate road would accord with the adopted DB.
107. Traffic from the northern part of the site towards the A143 will be more likely to travel northwards along Hepworth Road, and not use Old Bury Road. Other traffic from the site would be more likely to pass through the village centre. However there was no evidence to dispute the County Council's acceptance of the traffic assessment's findings that 2 way flows through the centre would increase by 10% in the morning peak and 12% in the evening peak. This seems to assume an equal split between the two accesses, but vehicles from 63 of the 101 dwellings would enter the estate road to the north of the open space. In my opinion they would be more likely to approach the A143 along Hepworth Road, so the additional use of the village centre would be somewhat less than the estimated one extra vehicle every 4 minutes. I do not consider that this extra traffic would be unacceptable. Nor was there any challenge to the finding that there is enough capacity at the two main junctions with the A143 and at the Hepworth Road / Upthorpe Road junction.
108. I have no reason to believe that the traffic conditions which I saw in the morning rush hour were unusual. Although I saw traffic to and from the industrial estate and the middle school, together with school and service buses, it appeared to me that this was well within the capacity of the road system and I saw no unacceptable congestion. Nor did I see on-street parking or traffic conflict around the school. I have no reason to believe that the proposed development would cause any material detriment to highway safety.
109. Nor was there any evidence that proposed traffic calming on Upthorpe Road would be inappropriate. On the contrary, any ways of slowing down traffic close to a school should be welcomed as improving safety for pedestrians and motorists. It was suggested that the situation, and hence the need for the works, could change if the school were to close but there was no evidence that this possibility was either realistic or imminent.
110. There were concerns over the position of the proposed footpath link where it joins the existing footway on Upthorpe Road, but no evidence was given that it would be unsafe. Even so, at the Inquiry the appellants agreed that other options exist, and undertook to re-examine its position. It appears that the County Council will consider this matter as part of the S278 Agreement, but in view of the public interest in this aspect of the scheme I consider that it should also be addressed by a condition.
111. The original proposals to narrow parts of Hepworth Road are not now proceeding and plan E1391/4/E, which contained them, has been superseded.

112. I find no reason to disagree with the highway authority's view that the highway safety impact of the proposal would be acceptable.

The Access Arrangements

113. The position of the access on to Hepworth Road has been slightly moved from that shown in the DB, and would now be opposite two dwellings. However the DB specifically says that the exact positions of the accesses would be agreed at detailed design stage, and be subject to advice from the highway authority. There is therefore no requirement for them to be exactly as shown in the DB. The alteration was clearly made to accord with the highway authority's minimum requirement for distances between opposing junctions.

114. It is not unusual to have houses opposite 'T' junctions; I saw several examples in Stanton, and there was no evidence that this arrangement causes any annoyance from car headlights shining into windows. There has been no challenge to the sections provided by the appellants. These show that the slope down on to Hepworth Road would be likely to mean that dipped headlights on the relatively low numbers of emerging vehicles during hours of darkness would not shine directly into the windows of the two houses in question and so would not cause unacceptable living conditions. Indeed, if there was any such annoyance, I am not persuaded that the use of curtains could not resolve it; I saw they were used at these properties in the late afternoon. The Council's reason for refusal relating to this matter has been withdrawn. In any event, any adverse impact would not be so great as to be unacceptable, or to breach policy CS3.

Other Material Considerations

115. The proportion of affordable housing to be created on this site accords with policy CS5's requirement of 30% on a site of this size. This would be a significant public benefit, even though the Council said that it would be intended for the benefit of the borough as a whole, rather than just Stanton. I was given no evidence to warrant any objection to the proposed mix of house sizes: there would be a wide range.

116. The scheme also includes significant provision of open space and play equipment to meet needs arising from the development. The appellants had offered the Parish Council an amount to improve off-site public open space but the offer was withdrawn as the identified costs would not be directly attributable to this development, would not be needed to make it acceptable, and would not be fairly related in scale and kind to it. I agree that this amount could not be lawfully requested, and would breach advice in the NPPF.

Conclusion

117. For the reasons given above I conclude that the appeal should be allowed.

Conditions

118. The parties provided a list of agreed conditions which in my opinion are based on the development plan and are necessary to make the development acceptable. They meet the tests of Circular 11/95. I shall condense them where appropriate, as discussed at the Inquiry. For example, suggested conditions 3 and 5 can usefully be combined and the details of the timetable set out in 3 could be proposed as details of the programme required by 5. Conditions relating to waste storage and disposal, and drainage, can also be

combined. It was agreed that the trigger for the implementation of the travel plan should accord with that in the unilateral undertaking.

119. The use of the phrase “except as otherwise agreed by the local planning authority” was discussed in the light of *Midcounties Co-operative Ltd v Wyre Forest DC* [2009] EWHC 964 (Admin). It seems to me that this could produce major changes to be agreed outside any statutory process; I shall not use it.

120. As discussed above I shall impose a condition relating to the type D houses. To avoid doubt, I shall list the approved plans, based on the details in the Statement of Common Ground, but excluding those of the type D houses.

Antony Fussey

INSPECTOR

Appeal Ref: APP/E3525/A/11/2162837

Land between Upthorpe Road and Hepworth Road, Stanton, IP31 2AE

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except as otherwise required by conditions below, the development hereby permitted shall be carried out in accordance with the approved plans listed in the attached schedule.
- 3) This permission shall not relate to the details of the dwellings shown on plots 5, 6, 10, 11, 21, 22, 63, 64, and 83-85 (all type D). No development shall take place on those plots except in accordance with details of layout, external appearance, design and scale which shall have been first submitted to and approved in writing by the local planning authority.
- 4) All external materials to be used in the dwellings hereby approved shall be in accordance with the Material Plot Schedule Revision C dated 9 May 2011.
- 5) Except where required to implement this condition, no development shall commence and no materials shall be delivered until the new estate road junction to Hepworth Road, including the clearing of land within the visibility splays to that junction, has been constructed in accordance with the approved plans. The visibility created shall be thereafter maintained.
- 6) No development shall commence until a programme for the implementation of the approved hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The trees shown on the approved landscaping scheme as being retained shall be fenced and protected in accordance with the specifications and legend on drawing no. ABBEY17478-02 revision A dated October 2010. No equipment, machinery or materials shall be brought on to the site for the purposes of the development until the local planning authority has been informed in writing that the approved fencing has been erected. The trees shall continue to be so protected during the period of construction and until all equipment, machinery and surplus materials have been removed from the site.
- 8) The boundary screen fencing shown on drawings P555/01 rev T, 06-HD25 and 06-HD25 shall be erected before each dwelling to which it relates is first occupied.
- 9) This permission shall not relate to the details of screen and splay walling shown on drawings P555/01 rev T and 06-HD19. No dwelling to which such walling relates shall be occupied until walling has been constructed in accordance with plans which shall first have been submitted to and approved in writing by the local planning authority.
- 10) The gradients of the vehicular accesses to the private drives shall not be steeper than 1 in 20 for the first 5 metres, measured from the nearside edge of the adjacent metalled carriageway.

- 11) No development shall commence until a scheme for on-site local waste management and recycling facilities has been submitted to and approved in writing by the local planning authority. The scheme shall include the provision of 3 wheelie bins, a compost bin and an installed water butt, or their equivalents, within each residential plot. No dwelling shall be occupied until the contents of the approved scheme have been provided insofar as they relate to that plot, and until the area on that plot to be provided for bin storage shown on drawing P555/01 rev T has been provided. Each such area shall be thereafter retained for that purpose.
- 12) No development shall commence until details of the estate roads and footpaths, including levels, layout, street lighting, gradients, surfacing, street signs and means of surface water drainage, together with a timetable for the implementation of the details, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the carriageways and footpaths serving that dwelling have been constructed to at least base course level in accordance with the approved details.
- 13) This permission shall not relate to the point where the footpath inside the site's eastern boundary joins the footway on Upthorpe Road shown on P555/01 rev T. Details of the location of the footpath and footway and any consequential changes to the route shown on that drawing shall be included in those required under condition 12 above.
- 14) No more than one dwelling shall be occupied until the Travel Plan revision dated July 2011 has been implemented. It shall be thereafter adhered to.
- 15) No dwelling shall be occupied until the areas within its plot shown on drawing P55/01 rev T for the manoeuvring and parking of vehicles has been provided in accordance with the approved plan. Those areas shall be thereafter retained, and used for no other purposes.
- 16) No more than 73 dwellings shall be occupied until the off-site highways works have been laid out and completed in accordance with drawing E1931/4/F, dated 5 December 2011.
- 17) No development shall commence until a scheme for the disposal of surface and foul water drainage from the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the carrying out of the works. The works shall be implemented in accordance with the approved scheme.
- 18) The scheme required under condition 17 above shall include the means of preventing surface water from discharging on to the highway. No access shall be used until the approved scheme has been completed insofar as it relates to that access.
- 19) If, during the course of development, any contamination is found which has not been previously identified, no further development shall be carried out until a method statement detailing how this contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The contamination shall be thereafter dealt with in accordance with the approved method statement.
- 20) No construction work shall commence either in the area of the site within a buffer of 15 metres from the northern boundary of the proposed excavation area defined in red within Figure 1 of the Written Scheme of Investigation for Archaeological Investigation, or within the proposed excavation area itself,

until the site investigation has been completed and until a timetable and programme for post-investigation assessment has been submitted to and approved in writing by the local planning authority.

- 21) The development hereby approved shall be carried out in full accordance with the Reptile Mitigation Method Statement dated 24 March 2011.
- 22) The occupation of the open market housing shall not be completed until the area of public open space specified on drawings ABBEY 17478-11 Rev H and 17478-12 Rev H has been completed, including the provision of footpaths, play equipment and landscaping in accordance with the approved specifications.
- 23) The long term management and maintenance of the landscaping and area of public open space shall be undertaken in accordance with the Landscape Management and Maintenance Plan, document ABBEY17478 Rev A dated March 2011. This shall include the management of the trees and shrubs in the planting buffer on the eastern boundary of the site, as shown on drawings ABBEY 17478-11 Rev H and 17478-12 Rev H. These trees and shrubs shall be maintained at a height not exceeding the eaves heights of the adjacent dwellings.
- 24) Development shall take place in accordance with the site management policy dated October 2010.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the floorspace shown within the curtilage of any dwelling for the purposes of garaging and/or car parking shall be retained solely for the garaging and/or parking of private motor vehicles and for ancillary domestic storage incidental to the enjoyment of the associated dwelling in accordance with the local planning authority's parking standards, and shall be used for no other purpose.
- 26) No dwelling shall be occupied on any phase of the development hereby approved until fire hydrants and associated infrastructure to serve that phase have been provided in accordance with details of the specification and location of the hydrants, and the properties covered by each phase, which shall have been submitted to and approved in writing by the local planning authority.

SCHEDULE OF APPROVED PLANS

1. Drawing P555/LOC/01: Location Plan
2. Drawing P555/02: Site Survey
3. Drawing P555/01 rev T : Planning Layout
4. Drawing P555/SS/02 rev B: Site Sections
5. Drawing P555/SS/01 rev D: Street Scenes
6. Drawing P555/SS/03 rev B: Street Scenes
7. Drawing P555/A/01 rev A: A Type - Floor Plans & Elevations
8. Drawing P555/B/01 : B Type - Floor Plans & Elevations
9. Drawing P555/E/01: E Type - Floor Plans & Elevations
10. Drawing P555/F/01: F Type - Floor Plans & Elevations
11. Drawing P555/F1/01: F1 Type - Floor Plans & Elevations
12. Drawing P555/F2/01: F2 Type - Floor Plans & Elevations
13. Drawing P555/G/01: G Type - Floor Plans & Elevations
14. Drawing P555/G1/01: G1 Type - Floor Plans & Elevations
15. Drawing P555/H1/01: H1 Type - Floor Plans & Elevations
16. Drawing P555/H2/01: H2 Type - Floor Plans & Elevations
17. Drawing P555/I/01: I Type - Floor Plans & Elevations
18. Drawing P555/I1/01 rev A: I1 Type - Floor Plans & Elevations
19. Drawing P555/J/01: J Type - Floor Plans & Elevations
20. Drawing P555/J1/01: J1 Type - Floor Plans & Elevations
21. Drawing P555/L/01 rev A: L Type - Floor Plans & Elevations
22. Drawing P555/L1/01: L1 Type - Floor Plans & Elevations
23. Drawing P555/M1/01: M1 Type - Floor Plans & Elevations
24. Drawing P555/M2/01 rev B: M2 Type - Floor Plans & Elevations
25. Drawing P555/P/01 rev A: P Type - Floor Plans & Elevations
26. Drawing P555/Q/01: Q Type - Floor Plans & Elevations
27. Drawing P555/GAR/01 rev A: Garage - Plans & Elevations
28. Drawing P555/GAR/02 rev A: Garage - Plans & Elevations
29. Drawing P555/GAR/03 rev A: Garage - Plans & Elevations
30. Drawing P555/GAR/07 rev A: Garage - Plans & Elevations
31. Drawing P555/GAR/08: Carport - Plans & Elevations
32. Drawing P555/GAR/10: Carport - Plans & Elevations
33. Drawing P555/GAR/11: Carport - Plans & Elevations
34. Drawing P555/GAR/12: Carport - Plans & Elevations
35. Drawing P555/GAR/13: Pyramid Garage - Plans & Elevations
36. Drawing P555/GAR/14: Carport - Plans & Elevations
37. Drawing P555/GAR/15: Sub Station - Plans & Elevations
38. Drawing P555/GAR/16: Carport - Plans & Elevations
39. Drawing P555/GAR/17: Carport & - Bins Plans & Elevations
40. Drawing P555/C/01: C Type - Floor Plans
41. Drawing P555/C/02: C Type - Elevations
42. Drawing P555/C1/01: C1 Type - Floor Plans
43. Drawing P555/C1/02: C1 Type - Elevations
44. Drawing P555/M3/01 rev B: M3 Type - Plans & Elevations
45. Drawing P555/S&J/01: S & J3 Type - Floor Plans
46. Drawing P555/S&J/02: S & J3 Type - Elevations
47. Drawing P555/SA/01: SA Type - Plans & Elevations
48. Drawing P555/N/01 rev A: N Type - Floor Plans
49. Drawing P555/N/02 rev A: N Type - Front & Side Elevations
50. Drawing P555/N/03 rev A: N Type - Rear & Side Elevations
51. Drawing P555/CS/01: Cycle Store
52. Drawing P555/MAT rev C: Materials Schedule

53. Drawing 06-HD24: Fence Details
54. Drawing 06-HD25: Fence Details
55. Drawing ABBEY17478AMS: Arboricultural Implications Assessment & Method Statement
56. Drawing ABBEY17478LSPEC: Landscape Specification
57. Drawing ABBEY17478-01: Tree Constraints Plan
58. Drawing ABBEY17478-03 rev A: Tree Protection Plan
59. Drawing ABBEY17478-06 rev D: Landscape Management Plan
60. Drawing ABBEY17478-10 rev J: Landscape Proposals Sheet 1
61. Drawing ABBEY17478-10 rev J: Landscape Proposals Sheet 2
62. Drawing ABBEY17478-10 rev J: Landscape Proposals Sheet 3
63. Drawing ABBEY17478-11 rev H: Open Space Proposals
64. Drawing ABBEY17478-12 rev H: Open Space Proposals
65. Drawing 17478MAN rev A: Management & Maintenance Plan
66. Wormald Burrows Drawing E1931/13 rev B: Hepworth Road 278 Works
67. Wormald Burrows Drawing E1931/15 rev B: Areas of Highway Construction
68. Wormald Burrows Drawing E1931/16 rev B: Standard Construction Details
69. Wormald Burrows Drawing E1931/4/F: Off Site Works drawing
70. Drawing CDJ/336: Foul sewage and utilities, September 2010

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Druce	Of Counsel, instructed by Head of Legal and Democratic Services, St Edmundsbury Borough Council
He called	
Mr M Flood BA(Hons) DipTP MRTPI	Director, Insight Town Planning Ltd
Mr S Langlois BSc MSc	Planning and Equivalence Manager, Anglian Water Services
Dr M Bull PhD DIC BSc(Hons) CEng CEnv CSci MChemE FIAQM MIEEnvSci	Director, Ove Arup & Partners Ltd

FOR THE APPELLANTS:

Mr M Reed	Of Counsel, instructed by Dickins Shiebert
He called	
Dr J Edis BA MA PhD MIFA IHBC	Partner, Heritage Collective LLP
Mr S A Dale DipLA CMLI	Director, ACD Landscape Architects
Mr P Freathy BSc(Hons) MEng	Managing Director, RWDI Anemos Ltd
Mr S Pierson BSc CEng CEnv MIAgrE	Principal Odour Consultant, ADAS
Miss A Parsons BA(Hons) DipTP MA-UD MRTPI	Associate, Barton Willmore LLP
Mr G M Burrows MCIHT	Managing Director, Wormald, Burrows Partnership Ltd
Dr N J Bather BA(Hons) PhD MRTPI	Planning Director, Barton Willmore LLP

INTERESTED PERSONS:

Mr P Palmer	Member, Stanton Parish Council
County Cllr J Spicer	Ward councillor, Suffolk County Council
Cllr J Thorndyke	Ward councillor, St Edmundsbury Borough Council
Mr S Temple	On behalf of the Society for the Protection of Ancient Buildings
Mr M Mason	On behalf of the East Anglian Mills Society
Mrs L Grixti	Joint owner of Stanton Mill
Mr G Stone	Of Wildacre View. Hepworth Road, Stanton

DOCUMENTS, ETC, INCLUDING THOSE SUBMITTED AT THE INQUIRY

- 1 Unilateral undertaking dated 29 February 2012
- 2 Unilateral undertaking dated 9 March 2012
- 3 Details of variations between documents 1 and 2
- 4 Unilateral undertaking dated 16 April 2012
- 5 Statement of Common Ground, including agreed conditions
- 6 Supplementary Statement of Common Ground: land supply
- 7 Supplementary Statement of Common Ground: odour
- 8 Letters of representations on appeal

- 9 Mr Reed's opening statement
- 10 Adopted design brief and master plan for the appeal site
- 11 Extract from Rural Vision 2031 consultation document
- 12 Bundle of correspondence with Anglian Water, including representations on St Edmundsbury Local Plan and on the application under appeal
- 13 2 extracts from Environment Agency Technical Report "Assessment of Community Response to Odorous Emissions" July 2002
- 14 Extract from Mogden Odour Study final report, Entec UK Ltd, November 2010
- 15 Extracts from judgement of Hanifa Dobson & Others v Thames water Utilities Ltd and Ofwat. [2011] EWHC 3253 (TCC)
- 16 Extract from Natural Scotland's Guidance on Statutory Code of Practice on Sewerage Nuisance – Assessment and Control of Odour from Waste Water Treatment Works. April 2006.
- 17 Extract from Environment Agency report on Review of Odour Character and Thresholds.
- 18 CIWEM response to DEFRA consultation on draft National Policy Statement for Waste Water Treatment. February 2011.
- 19 Cllr Thorndyke's written statement
- 20 Mr Temple's written statement
- 21 Emails relating to funds for improvement of village recreation ground
- 22 Letter from Suffolk County Council relating to the unilateral undertaking
- 23 Mr Mason's personal details and qualifications
- 24 Mr Mason's video presentation
- 25 The Council's notes on questions raised by the Inspector
- 26 The appellants' response to document 25
- 27 The appellants' representations on the implications of the NPPF for the appeal proposals
- 28 The Council's representations on the implications of the NPPF, together with its comments on documents 26 and 27
- 29 Midcounties Co-operative Ltd v Wyre Forest DC [2009] EWHC 964 (Admin)
- 30 Mr Temple's closing submissions
- 31 The Council's closing submissions
- 32 The appellants' closing submissions
- 33 Suggested conditions agreed by the main parties, as revised
- 34 The appellants' suggested condition in relation to the type D dwellings
- 35 Representations by the Council on possible conditions
- 36 The appellants' costs application
- 37 The Council's response to the application
- 38 The appellants' reply to the response

PLANS

- A Plan of cordons sanitaires around Stanton STW submitted by Anglian Water

PHOTOGRAPHS

- 1 Views from Stanton Mill, submitted by Mr Temple